



Signed and Filed: September 22, 2021

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Reorganized Debtors.)
☐ Affects PG&E Corporation)
☐ Affects Pacific Gas and)
Electric Company)
☒ Affects both Debtors)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

**ORDER DENYING PRICEWATERHOUSECOOPERS LLP'S MOTION FOR STAY
PENDING APPEAL**

I. INTRODUCTION

Shortly after the Court issued its *Order Compelling PricewaterhouseCoopers LLP's Compliance with Rule 2004 Subpoena in Relation to the General Rate Case Documents* ("Order") (Dkt. 11145), PricewaterhouseCoopers LLP ("PwC") filed a *Notice of Appeal* ("Appeal") (Dkt. 11199), *Motion for Leave to Appeal from*

1 *Order Compelling PricewaterhouseCoopers LLP's Compliance with*
2 *Rule 2004 Subpoena in Relation to the General Rate Case*
3 *Documents* (Dkt. 11200), and *Motion for Stay Pending Appeal*
4 *("Motion")* (Dkt. 11201). Trustee for the Fire Victim Trust
5 filed a corrected *Opposition* to the Motion ("*Opposition*") (Dkt.
6 11272). For the reasons discussed below, the Court denies the
7 Motion and directs PwC to comply with its previous Order.

8 **II. DISCUSSION**

9 PwC's Motion lays out the traditional four factors of a
10 successful motion for stay pending appeal: (1) likelihood of
11 success on the merits; (2) irreparable harm to the movant absent
12 a stay; (3) whether a stay will result in substantial harm to
13 interested parties; and (4) whether a stay will result in harm
14 to the general public. PwC fails to make a positive showing on
15 any of these factors.

16 **A. There Is Little Likelihood of Success on the Merits**

17 The first factor of a stay pending appeal is a likelihood
18 of success of appeal on the merits. The Court finds little
19 likelihood of success for PwC's appeal of the Order for two
20 reasons: (1) PwC has not shown that the Order's underlying 2004
21 Subpoena is too broad; and (2) PwC has not shown that the
22 District Court will likely grant leave to hear its interlocutory
23 appeal.

24 First, the Order and underlying 2004 Subpoena direct a
25 significant provider of services to the Debtors to provide
26 relevant records to the Fire Victims Trustee pursuant to Fed. R.
27 Bankr. P. 2004 ("*Rule 2004*"). As the Court has previously noted
28 in its Order, the powers of Rule 2004(b) are broad, and permit

1 discovery of "any matter which may affect the administration of
2 the debtor's estate." Order at 1-2. The Court further notes
3 that the grant of examinations under Rule 2004 is largely
4 discretionary. Here, PwC again argues that the scope of the
5 2004 Subpoena is too broad by focusing on an almost hyper-
6 technical interpretation of the term "causation." According to
7 PwC, if any of the documents requested could lead to a cause of
8 action other than one relating to PwC's role in wildfire
9 causation, the entire 2004 Subpoena must fail. The Court
10 disagrees. The broad scope of Rule 2004 is well established, and
11 a reiteration of the argument that the 2004 Subpoena must be
12 limited to what PwC alone deems is relevant to the claims the
13 Trustee may be later able to bring against PwC remains, to this
14 Court, an unpersuasive interpretation of Rule 2004.

15 Second, PwC's Appeal is of an interlocutory discovery
16 order, and PwC has not shown that there is any likelihood the
17 District Court will grant leave to hear the appeal. District
18 Courts do not grant leave to appeal interlocutory orders easily,
19 and PwC's argument for leave appears to consist of an
20 intentionally narrow reading of the well-established law
21 surrounding Rule 2004.

22 The Court finds no showing of the likelihood of success on
23 the merits.

24 **B. PwC Will not Suffer Irreparable Injury Absent a Stay**

25 The second factor of a stay pending appeal is a showing of
26 irreparable harm to the movant absent the stay. Here, PwC
27 confuses a potentially weakened position in relation to
28 hypothetical future discovery disputes and the cost of

1 compliance with irreparable injury. Any future unrelated
2 discovery disputes pertaining to the scope of discovery shall be
3 evaluated on its own merits. The weakness of a potential
4 litigation position does not amount to irreparable injury.
5 Further, the cost of compliance with a discovery order does not
6 constitute irreparable injury. See *Renegotiation Bd. V. Banner*
7 *craft Clothing Co.*, 415 U.S. 1, 24 (1974); *Americans v. Harris*,
8 No. 2:14-CV-09448-R, 2015 U.S. Dist. LEXIS 188242, at *4 (C.D.
9 Cal. May 19, 2015) ("Case law is abundantly clear that the costs
10 of litigation, including discovery and motion practice, are not
11 irreparable injury").

12 The Court finds no showing that PwC will face irreparable
13 injury absent a stay.

14 **C. The Trustee and Public Interest Would Be Substantially**
15 **Harmed by a Stay**

16 The third and fourth factors relate to whether a stay would
17 substantially harm other parties to the proceeding or the
18 general public. While PwC has been responsive to many other
19 requests of the Trustee, it has not responded to the specific
20 2004 Subpoena in relation to the General Case Rate documents.
21 This delay has resulted in costs to the Fire Victim Trust, a
22 Trust meant specifically to compensate the many victims of the
23 Debtors. This delay impedes the Trustee's mandated duty to
24 develop any facts that may support a claim against PwC that
25 could lead to recovery for these victims. While the Court
26 acknowledges PwC's cooperation and responsiveness to other
27 requests of the Trustee, this does not excuse further delay of
28 compliance with the Order.

1 The Court finds the Trustee and the general public would be
2 harmed by the imposition of a stay.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court DENIES the Motion. The
5 Court FURTHER ORDERS that PwC comply with its previous Order.

6 ****END OF ORDER****
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COURT SERVICE LIST

ECF Recipients